



harm in the absence of preliminary relief; (3) that the balance of equities tips in his favor; and (4) that the issuance of a preliminary injunction would be in the public interest. Winter v. Natural Res. Def. Council, Inc., 129 S.Ct. 365, 374 (2008). A preliminary injunction is an extraordinary remedy. Id. at 376.


In the M&R, Judge Daniel found that plaintiff failed to carry its burden of demonstrating a likelihood of prevailing on the merits of its patent infringement claim as to the Kim Rogers slipper. Judge Daniel also found that plaintiff failed to carry its burden of demonstrating a likelihood of irreparable harm absent a preliminary injunction.

The court has reviewed the M&R, the objections filed by plaintiff as well as the reply filed by defendant, and finds, for the reasons stated in the M&R, that plaintiff has failed to carry its burden of demonstrating a likelihood of irreparable harm absent a preliminary injunction. To establish irreparable harm, the party seeking a preliminary injunction must demonstrate an injury that cannot be effectively remedied by an award of monetary damages. The court finds, despite plaintiff's objections, that Belk is no longer selling the Kim Rogers slipper and has no plans to do so again in the future. Furthermore, the court finds that monetary damages would likely

be adequate to compensate plaintiff for past losses. Therefore, the court finds that plaintiff has not carried its burden of showing a likelihood of irreparable harm.

Because plaintiff has failed to show a likelihood of irreparable harm, an injunction is not warranted.<sup>1</sup> Therefore, plaintiff's renewed motion for preliminary injunction is DENIED.

This 11<sup>TH</sup> day of August 2011.

  
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Malcolm J. Howard  
Senior United States District Judge

At Greenville, NC  
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<sup>1</sup> The court does not reach Judge Daniel's alternate finding that plaintiff failed to carry its burden of demonstrating a likelihood of success on the merits of its claim.